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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,274	07/08/2003	Vu Xuan Minh		7744

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VU XUAN MINH
24 Ngo 231 Pho Kham Thien
Hanoi,
VIET NAM

EXAMINER

SUKMAN, GABRIEL S

ART UNIT PAPER NUMBER

3641

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,274

Applicant(s)

MINH, VU XUAN

Examiner

Gabriel S. Sukman

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MS

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The substitute specification filed 2 July 2004 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: the substitute specification contains new matter.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21-40 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a credible asserted utility or a well established utility.

All statements made in the previous Office Action stand as Applicant has not submitted persuasive evidence to rebut the examiner's assertions concerning the inoperativeness of the invention. Further:

The applicant has not presented a sufficient showing that the disclosed invention would operate as claimed to generate a force. Simply stated, the derivation submitted to "dispro[ve] . . . Newton's laws of motion for the dynamics of solid-fluid bodies by using the . . . self-action principle" is believed to be erroneous.

For example, Applicant begins the derivation, equation 501, with Newton's second law of motion (essentially $F = ma$) and, on page 17 of the marked up version of the substitute specification (concerning equations 505-509), applicant invokes Newton's third law. It is a simple matter of good and reliable scientific method that one exclude

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from derivation the very concepts sought to be disproved ("the discovery of the self-action force of mobile object 40 cannot be explained in the scope of Newton's mechanics," Subst. Spec., p15). In other words, the fact that Newton's laws rely upon the well-established proposition of the conservation of momentum renders any attempt to disprove such laws and concepts internally contradictory and altogether fallacious. The submitted derivation is replete with such errors. The description of the performed experiment lacks enough detail to warrant serious questions about the conditions, controls, and apparatuses used during experimentation and whether it was conducted under credible circumstances.

Therefore, the examiner requests sufficient evidence to show that the claimed invention is operative, such as a working model, for prosecution on the merits on the case to continue.

Claims 21-40 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a credible asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally indefinite and unclear. For example, in claim 1, it is unclear what is meant by "the maximum difference between the pressures." Further, the claims that recite the limitations of producing a "self-action force that allows it to accelerate itself in any environment without the use of jets, reactive or external forces, and the self-action force . . . can be increased as many times as desirable due to increasing the pressure of the air inside said generator chamber" strikes directly at the heart of modern physics, as addressed above and in the prior Office Action, and is especially indefinite in that it is unclear how the applicant has performed such a feat in view of the claimed invention.

Response to Arguments

Applicant's arguments filed 20 May 2004 have been fully considered but they are not persuasive. Applicant's remarks have been addressed above. Further, Applicant has not specifically addressed the points made by the examiner in the previous Office Action concerning the operativeness of the invention, i.e., (a) the reduction of pressure below the disk stator caused by the fan and (b) the downward reaction forces of the deflected air that necessarily arise when lift is created.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

With respect to Applicant's request for claim drafting assistance and the conditional request for constructive assistance, it is noted that such assistance is not possible here because, at this point in prosecution, there is a question of utility that must first be answered, not patentability. Applicant bears the burden of showing that the invention can work and until such a showing is made, the examiner cannot assist in drafting patentable claim language.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel S. Şukman whose telephone number is (703)

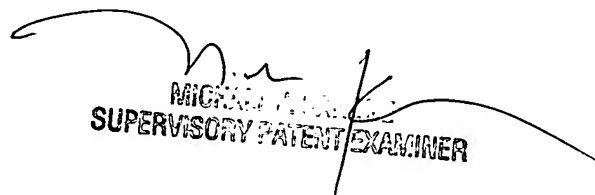
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308-8508. The examiner can normally be reached on M-F, 8:30-6:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gss


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER